

### **REMARKS**

Claims in the case are 1-6, 17-24 and 26. No claims have been amended, added or cancelled herein.

Claim 1 stands rejected under 35 U.S.C. §112, second paragraph. This rejection is respectfully traversed in light of the following remarks.

On page 2 of the Office Action of 22 January 2004, it is argued that Applicants' claims are indefinite because it is unclear how a homopolymer having a mean particle diameter size of 0.04 to 1  $\mu\text{m}$  can also have a coarse portion having a mean particle diameter of 200 to 500  $\mu\text{m}$ , when the homopolymer is prepared under the same conditions.

Applicants respectfully contend that a homopolymer prepared by a single process, e.g., emulsion polymerization, can result in the particle size distributions recited in their claims. Applicants submit that in the preparation of a homopolymer by means of an emulsion or latex polymerization process, agglomeration of smaller particles (e.g., having a mean particle diameter of 0.04 to 1  $\mu\text{m}$ ) can result in the formation of a coarse portion (e.g., having a mean particle diameter of from 200 to 500  $\mu\text{m}$ ).

In light of the preceding remarks, Applicants' claims are deemed to particularly point out and distinctly claim the subject matter which they regard as their invention. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1-6, 17-24 and 26 stand rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 5,552,465 (**Witmann et al**). This rejection is respectfully traversed with regard to the following remarks.

Witmann et al disclose a thermoplastic molding composition that includes a thermoplastic polycarbonate (A), a graft copolymer (B), optionally a thermoplastic polymer (C), a phosphorous compound (D), and a fluorinated polyolefin (E). See the abstract and column 1, line 8 through column 2, line 9 of Witmann et al.

It is respectfully submitted that the Office Action (page 3) has mischaracterized Witmann et al's disclosure with regard to graft polymer (B). Witmann et al does not disclose the particle size of their graft polymer (B), they only disclose the particle size of the graft base (B.1) from which graft polymer (B) is

prepared. In addition, Witmann et al provide no disclosure with regard to the particle size (if any) of the grafted polymer (B.2) that is grafted onto the graft base (B.1). See column 1, lines 15-28; and column 8, line 15 through column 9, line 31 of Witmann et al.

Witmann et al's graft polymer (B) is prepared by grafting a polymer (B.2) (prepared from at least one of styrene, acrylonitrile and methyl methacrylate) onto a graft base (B.1) (which is a partially crosslinked diene rubber having an average particle diameter of 0.05 to 2.0  $\mu\text{m}$ ). Upon completion of the grafting process, Witmann et al's final graft polymer (B) does not contain free graft base (B.1). As such, Witmann et al's disclosure as to the average particle size of the graft base (B.1) does not extend to or otherwise touch upon the particle size of the final graft polymer (B), (which is not disclosed by Witmann et al). Accordingly, Witmann et al's disclosure of graft polymer (B), graft base (B.1) and grafting polymer (B.2) does not extend to or reasonably read upon the polymer of Applicants' claims.

On page 3 of the Office Action it is argued that Witmann et al's disclosure of fluorinated polyolefin (E) reads upon Applicants' claims. Applicants' respectfully disagree. The polymer of Applicants' claims does not include fluorinated polyolefins. The polymer of Applicants' claims is prepared from at least one ethylenically unsaturated monomer selected from the group **consisting of** ethylene, propylene, 1,3-butadiene, isoprene, vinyl acetate, styrene,  $\alpha$ -methylstyrene, styrenes substituted at the nucleus, vinyl cyanides, maleic anhydride, N-substituted maleimides, C<sub>1</sub>-C<sub>8</sub>-alkyl acrylates and C<sub>1</sub>-C<sub>8</sub>-methacrylates. The closed-end recitation of monomers from which Applicants' polymer may be prepared does not include fluorinated polyolefins. As such, Witmann et al's disclosure relative to fluorinated polyolefins is not deemed to extend to or otherwise read upon Applicants' claims.

On page 3 of the Office Action it is further argued that the concentration of Witmann et al's fluorinated polyolefin (E), 0.05 to 5 parts by weight based on 100 parts by weight of components (A) + (B) + (C), reads on Applicants' coarse particle size amount of  $\leq 100$  ppm. Applicants respectfully disagree. The compositions of Witmann et al contain at least 1600 ppm of fluorinated polyolefin (E) based on the weight of graft polymer (B).

Witmann et al's molding composition is disclosed as containing 3 to 30 percent by weight of graft polymer (B) based on components (A) + (B) + (C) (column 1, lines 15-17). The arguments in the Office Action of 22 January 2004 center on the relative weights of Witmann et al's components (E) and (B). Relative to graft polymer (B), fluorinated polyolefin (E) is present in an amount of at least 1600 ppm. See the following calculation.

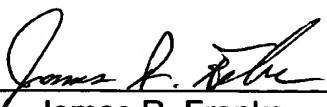
$$((0.05 \text{ parts (E)} / 30 \text{ parts (B)}) \times 100 = 0.16 \text{ wt.\%} \approx 1600 \text{ ppm})$$

In light of the preceding remarks, Applicants' claims are deemed to be unanticipated by and patentable over Witmann et al. Reconsideration and withdrawal of this rejection is respectfully requested.

Applicants note with appreciation the withdrawal of the previous rejections of the claims as being obvious over United States Patent No. 4,426,499 (**Korte et al**), and anticipated by United States Patent No. 3,919,353 (**Castelnuovo et al**).

In light of the amendments herein and the preceding remarks, Applicants' presently pending claims are deemed to meet all the requirements of 35 U.S.C. §112, and to define an invention that is unanticipated, unobvious and hence, patentable. Reconsideration of the rejections and allowance of all of the presently pending claims is respectfully requested.

Respectfully submitted,

By 

James R. Franks  
Agent for Applicants  
Reg. No. 42,552

Bayer Polymers LLC  
100 Bayer Road  
Pittsburgh, Pennsylvania 15205-9741  
(412) 777-3808  
FACSIMILE PHONE NUMBER:  
(412) 777-3902  
lo/FRANKS/jrf107